

EXHIBIT 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Steve TENGLER et al.

Title: METHOD AND SYSTEM FOR COMMUNICATION
BETWEEN VEHICLES TRAVELING ALONG A SIMILAR
PATH

Appl. No.: 10/813,440

Filing Date: 3/31/2004

Examiner: Tan Quang NGUYEN

Art Unit: 3661

Confirmation 3778

Number:

DECLARATION UNDER 37 C.F.R. § 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PURPOSE OF DECLARATION

1. This Declaration is submitted to establish conception of the invention in this application in the United States, on a date before January 30, 2004, which is the filing date of U.S. Published Application US 2005/0003844 A1 to Nishiga et al. ("Nishiga"), and diligence from before January 30, 2004, to the March 31, 2004 constructive reduction to practice date. Nishiga was cited by the Examiner in an Office Action dated March 21, 2007, in the above-identified application. The person making this declaration is one of the attorneys employed by the law firm of Foley & Lardner LLP who participated in preparation of the present application.

FACTS AND DOCUMENTARY EVIDENCE

2. The attached draft of a patent application of December 9, 2003 (Exhibit 3) is submitted as evidence that the invention claimed in this application was conceived prior to January 30, 2004.

3. The draft of a patent application of December 9, 2003 demonstrates that the inventors conceived of determining, by a first vehicle, whether other vehicles are within short range communication range of the first vehicle; filtering, by the first vehicle, of the other vehicles within short range communication range based on whether the other vehicles are traveling along a same travel path; and establishing communication with one or more of the other vehicles based on the filtering in the filtering step.

4. The draft of a patent application of December 9, 2003 also demonstrates that the inventors conceived of a short range communication unit for the first vehicle to communicate with other vehicles which are within range of the short range communication unit associated with the first vehicle; a positioning determination system for determining a position of the first vehicle; and a control unit for filtering, by the first vehicle, of the other vehicles based on a distance of the other vehicles and whether the other vehicles are traveling along a same or similar travel path, wherein the short range communication unit establishes communication with one or more of the other vehicles filtered by the control unit.

5. The draft of a patent application of December 9, 2003 further demonstrates that the inventors conceived of short range communication means for the first vehicle to communicate with other vehicles which are within range of the short range communication means associated with the first vehicle; means for determining a position of the first vehicle; and a control means for filtering, by the first vehicle, of the other vehicles based on a distance of the other vehicles and whether the other vehicles are traveling along a same or similar travel path, wherein the short range communication means establishes communication with one or more of the other vehicles filtered by the control means.

6. In addition, the draft of a patent application of December 9, 2003 further demonstrates that the inventors conceived of short range communication means for the first

vehicle to communicate with other vehicles which are within range of the short range communication means associated with the first vehicle; and means for manually inputting a vehicle ID of a second vehicle with which the first vehicle desires to communicate, wherein the short range communication means establishes communication with the second vehicle based on the vehicle ID inputted in the first vehicle.

7. On December 9, 2003, the draft of a patent application of December 9, 2003 was sent by Mr. Chatterjee, who was charged with drafting the patent application, to me for review. I made suggestions and comments regarding the patent application before it was sent to Nissan Technical Center North America, Inc. (hereinafter "Nissan") for review.

8. On December 11, 2003, the application was revised by Mr. Chatterjee in view of my comments, as indicated in Exhibit 4. Exhibit 4 is submitted as evidence to show the time entries in which Mr. Chatterjee (indicated as "CSC" in Exhibit 4) and myself (indicated as "GL" in Exhibit 4) worked on the application. Exhibit 4 provides the hours charged to Nissan for work performed by the law firm of Foley & Lardner LLP. Exhibit 4 has been redacted to remove the dollar amounts charged to Nissan and the names of Nissan personnel; however, the redacted information is not pertinent to the issue of due diligence.

9. On December 12, 2003, the application was discussed between myself and Mr. Chatterjee, as indicated in Exhibit 4.

10. On December 12, 2003, an email was sent by Mr. Chatterjee to Mr. Robert Ford, Patent and Certification Engineer for Nissan (Exhibit 5).

11. From January 8, 2004 to January 15, 2004, the application was reviewed by at least one of the inventors at Nissan. Exhibit 6 is a series of emails in which an email was sent by Mr. Ford to Mr. Steve Tengler, one of the inventors, for review of the application on January 8, 2004; an email was sent by Mr. Tengler to Mr. Ford on January 15, 2004, providing comments on the patent application; and an email sent by Mr. Ford to Mr. Chatterjee on January 15, 2004, which forwards the comments of Mr. Tengler

12. On January 15, 2005, the comments from Nissan were received by Mr. Chatterjee and myself (Exhibit 6).

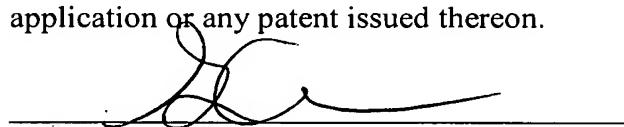
13. On March 15, 2004 to March 25, 2004, the patent application was revised by Mr. Chatterjee. Exhibit 7 is submitted as evidence to show that Mr. Chatterjee (indicated as "CSC" in Exhibit 7) revised the application on March 15, 2004, and finalized the application on March 25, 2004. Exhibit 7 provides the time entries in which Mr. Chatterjee (indicated as "CSC" in Exhibit 7) worked on the application. Exhibit 7 provides the hours charged to Nissan for Mr. Chatterjee's work. Exhibit 7 has been redacted to remove the dollar amounts charged to Nissan and the names of Nissan personnel; however, the redacted information is not pertinent to the issue of due diligence.

14. On March 25, 2005, I reviewed the patent application, as the indication of "GL" in Exhibit 7 shows. Please note that the "1.0" entry for March 25, 2004 means 1 standard charge (which includes attorney and paralegal time) for filing a patent application.

CONCLUSION

15. The attached exhibits provide evidence of the conception of the invention in this application before January 30, 2004, and diligence in preparing and filing the application from January 30, 2004 to March 31, 2004.

16. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


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